

**Final Statement of Reasons for the Adoption of
California Code of Regulations, Title 18, Section 1525.4,
*Manufacturing and Research & Development Equipment***

Update of Information in the Initial Statement of Reasons

On July 17, 2014, the State Board of Equalization (Board) held a public hearing regarding the proposed adoption of California Code of Regulations, title 18, section (Regulation) 1525.4, *Manufacturing and Research & Development Equipment*. During the public hearing, the Board unanimously voted (Board Member Steel absent) to adopt proposed Regulation 1525.4 without making any changes.

The factual basis, specific purposes, and necessity for, the problems to be addressed by, and the anticipated benefits from the adoption of proposed Regulation 1525.4 are the same as provided in the initial statement of reasons.

The Board anticipates that the adoption of proposed Regulation 1525.4 will benefit the Board, Board staff, and persons engaged in manufacturing, research and development, or both by:

- Providing guidance about and promoting awareness of the partial exemption for equipment used primarily in manufacturing and research and development provided by Revenue and Taxation Code (RTC) section 6377.1, and the requirements to qualify for the partial exemption;
- Implementing RTC section 6377.1, subdivision (c) by prescribing the form of the partial exemption certificate that qualified persons and construction contractors must issue to retailers, and providing sample partial exemption certificates that meets the required form for such persons to use;
- Interpreting and making specific RTC section 6377.1, subdivision (b)(6)(A) by defining what is meant by the requirement that a qualified purchaser be “primarily engaged” in a qualifying line of business;
- Interpreting and making specific RTC section 6377.1, subdivision (b)(7)(A)(iv) by further defining “special purpose buildings and foundations”;
- Interpreting and making specific RTC section 6377.1, subdivision (f) by clarifying the application of the partial exemption in the context of certain lease transactions; and
- Interpreting and making specific RTC section 6377.1, subdivision (a)(4) by clarifying the application of the partial exemption to transactions involving construction contracts.

The adoption of proposed Regulation 1525.4 is not mandated by federal law or regulations. There is no previously adopted or amended federal regulation that is identical to proposed Regulation 1525.4.

The Board did not rely on any data or any technical, theoretical, or empirical study, report, or similar document in proposing or adopting Regulation 1525.4 that was not identified in the initial statement of reasons, or which was otherwise not identified or made available for public review prior to the close of the public comment period.

In addition, the factual basis has not changed for the Board's initial determination that the proposed regulatory action will not have a significant adverse economic impact on business, the Board's determination that the proposed regulatory action is not a major regulation, as defined in Government Code section 11342.548 and California Code of Regulations, title 1, section 2000, and the Board's economic impact assessment, which determined that the Board's proposed regulatory action:

- Will neither create nor eliminate jobs in the State of California;
- Nor result in the elimination of existing businesses;
- Nor create or expand business in the State of California; and
- Will not regulate or affect the benefits of the regulation to the health and welfare of California residents, worker safety, or the state's environment.

The adoption of proposed Regulation 1525.4 may affect small businesses.

Necessity for Duplication

Proposed Regulation 1525.4 duplicates some of the provisions in RTC section 6377.1, which is cited in the regulation's "reference" note, and the duplication is necessary to satisfy the "clarity" standard of Government Code section 11349.1, subdivision (a)(3), by providing those subject to the regulation with all the relevant statutory requirements in one place.

No Mandate on Local Agencies or School Districts

The Board has determined that the adoption of proposed Regulation 1525.4 does not impose a mandate on local agencies or school districts.

Public Comments

The Board did not receive any written comments regarding the proposed regulatory action. During the July 17, 2014, public hearing, Therese Twomey, Fiscal Policy Director for the California Taxpayers Association (CalTax), thanked the Board and the Board's staff for its leadership and work in drafting proposed Regulation 1525.4 in a manner consistent with the economic growth envisioned by the legislature, and offered support in favor of adopting proposed Regulation 1525.4. The Board considered Therese Twomey's comments prior to the adoption of proposed Regulation 1525.4. Therese Twomey was the only interested party that appeared at the public hearing on July 17, 2014, to comment on the proposed regulatory action.

Determinations Regarding Alternatives

By its motion on July 17, 2014, the Board determined that no alternative to the adoption of proposed Regulation 1525.4 would be more effective in carrying out the purposes for which the regulatory action is proposed, would be as effective and less burdensome to affected private persons than the adopted regulation, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or provisions of law.

The Board did not reject any reasonable alternative to proposed Regulation 1525.4 that would lessen any adverse impact the proposed regulatory action may have on small business.

No reasonable alternative has been identified and brought to the Board's attention that would lessen any adverse impact the proposed action may have on small business, be more effective in carrying out the purposes for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law than the proposed action.

Request for Early Effective Date

The Board has adopted proposed Regulation 1525.4 to implement, interpret, and make specific the partial exemption from sales and use tax provided by RTC section 6377.1, effective on July 1, 2014, and, once the regulation is effective, its provisions will have a retroactive effect to July 1, 2014, pursuant to RTC section 7051. Therefore, the Board has determined that there is good cause to request an early effective date for Regulation 1525.4 in order to ensure that the regulation is effective as soon possible, and the Board hereby requests that Regulation 1525.4 be effective immediately upon filing with the Secretary of State, pursuant to Government Code section 11343.4, subdivision (b)(3).